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March 18, 2004

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Room 700
Washington, D. C. 20423

RE: Docket No. AB-55 (Sub-No. 568X), *CSX Transportation, Inc.—Abandonment Exemption—in Franklin County, PA*

Dear Secretary Williams:

Enclosed are the original and 10 copies CSX Transportation, Inc.'s Reply to the Motion to Strike and three diskettes containing the file Reply.doc.

Please time and date stamp the additional copy of this letter and the Reply, and return them to our messenger. Thank you for your assistance.

If you have any questions, call or email me.

Sincerely yours,

Louis E. Gitomer
Attorney for CSX Transportation, Inc.

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MAR 18 2004

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Enclosures

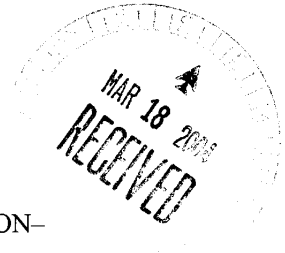
ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-55 (Sub-No. 568X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN FRANKLIN COUNTY, PA

REPLY TO MOTION TO STRIKE OF CSX TRANSPORTATION, INC.



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Attorneys for: CSX TRANSPORTATION,
INC.

Dated: March 18, 2004

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-55 (Sub-No. 568X)

CSX TRANSPORTATION, INC.—ABANDONMENT EXEMPTION—
IN FRANKLIN COUNTY, PA

REPLY TO MOTION TO STRIKE OF CSX TRANSPORTATION, INC.

CSX Transportation, Inc. (“CSXT”) opposes the Motion to Strike filed on March 4, 2004 (the “Motion”) by Frederick Armstrong Fox, Frederick A. Fox, Kaye A. Fox, and New Franklin Properties, LLC (the “Foxes”). CSXT does not oppose the alternate request by the Foxes that the Motion be treated as surreply.

CSXT provided a full background of this proceeding in the Reply filed on February 27, 2004 (the “February 27 Reply”). A very brief summary follows.

The Surface Transportation Board (the “Board”) granted a Petition for Exemption filed by CSXT on November 16, 1998 to abandon a 1.9-mile line of railroad known as the Baltimore Service Lane, Lurgan Subdivision, extending between milepost BAV-20.5 at 4th Street and milepost BAV-22.4 at Commerce Street in Chambersburg, Franklin County, PA (the “Line”). *CSX Transportation, Inc.—Abandonment Exemption—in Franklin County, PA*, STB Docket No. AB-55 (Sub-No. 568X) (STB served March 9, 1999).

There are three line segments. Segment 1 is between 4th Street, valuation station 1083+20, and Main Street, valuation station 1096+20, but does not include the Main Street crossing. Segment 2 is between Main Street, valuation station 1096+20, including the Main



Street crossing, and South Street, valuation station 1122+30, not including the South Street crossing. Segment 3 is between South Street, valuation station 1122+30, including the South Street crossing, and Commerce Street, valuation station 1182+72, including the Commerce Street crossing.

Segment 3 has been transferred to Chambersburg. Segment 2 should be transferred to the Foxes under the offer of financial assistance (“OFA”) process pursuant to 49 U.S.C. § 10904. Only the disposition of Segment 1 remains to be determined. The Foxes seek to acquire Segment 1 under a late-filed OFA, while Chambersburg also seeks to acquire Segment 1, as non-rail property. As explained by CSXT in its February 27 Reply, CSXT seeks to dispose of Segment 1 expeditiously, nearly five and one-half years after it first sought abandonment.

By decision served January 20, 2004, as extended by decision served February 6, 2004 (the “*Comment Decision*”), with regard to Segment 1, the Board stated:

The current record provides only terse statements, without supporting evidence, of the parties’ respective plans for this segment. Accordingly, the parties are directed to provide additional evidence about their respective plans for Segment 1 and how they intend to pursue those plans if afforded the opportunity, so that the Board will have a sufficient record upon which to assess the public interest in this situation.

The Foxes and Chambersburg filed comments on February 17, 2004. On February 27, 2004, the Foxes and Chambersburg filed replies to each others comments. CSXT also filed a reply, the February 27 Reply. On March 3, 2004, the Foxes filed the Motion. The Foxes seek to strike the February 27 Reply as untimely. Motion at 11. In the alternative, the Foxes seek to have the Motion treated as surreply.

ARGUMENT

The February 27 Reply is in full compliance with the *Comment Decision*. CSXT is clearly a party since it is CSXT that is seeking the abandonment and it is CSXT's property that is the subject of this proceeding. CSXT responded to the positions taken by both the Foxes and Chambersburg in their February 17 comments. The February 27 Reply stated CSXT's position with regard to its desire to quickly dispose of Segment 1.

Despite the many irrelevant and intemperate arguments made by the Foxes in the Motion, CSXT fully complied with the *Comment Decision*. CSXT did not file opening comments, but instead evaluated the positions taken by Chambersburg and the Foxes. The *Comment Decision* invited the parties to file comments and replies. As previously explained, CSXT is a party and replied to the comments of the Foxes and Chambersburg to assist the Board in reaching a decision in this matter and to expedite the conclusion of this abandonment. The February 27 Reply was filed on time.

CSXT did not file the February 27 Reply in response to the Foxes August 15, 2003 Petition, as argued by the Foxes. As has been stated before, CSXT responded to the Board's request for information.

The Foxes constantly berate CSXT for seeking extensions of its abandonment authority for Segment 1. However, until the Foxes August 15, 2003 Petition seeking to reopen the instant proceeding to file an OFA for Segment 1, the extensions only affected Segment 1, which was of no concern to the Foxes. Without the extensions, Segment 1 would have been abandoned and the track converted to industrial track or removed. It was these very extensions that preserved the opportunity for the Foxes to file their August 15 Petition. However, CSXT is now interested in the expeditious sale of Segment 2 to the Foxes under the OFA process and the disposition of Segment 1.

The gist of the Foxes's motion seems to be their realization that the OFA made for Segment 2 in March 1999 may not preserve their connection with the national rail system. The Foxes also seem to associate ownership of a rail line with ownership of an adjacent potential rail user. Unfortunately for the Foxes, there is no nexus between the existence of a railroad line and the existence of a user of rail service adjacent to that line. There are tens of thousands of miles of rail line in this country that are used to connect shippers to the national rail system, where there is no shipper adjacent to the line.


The Foxes 2002 acquisition of the property adjacent to Segment 1 is not a material change in circumstances in this proceeding. Segment 1 was subject to the OFA process in the abandonment proceeding, and Segment 1 was at all times necessary for the Foxes to connect Segment 2 to the national rail transportation system. In the February 27 Reply, CSXT was merely pointing out that the Foxes assumed a risk by filing an OFA only for Segment 2 when they could just as easily have filed an OFA for Segment 1 as well, regardless of whether they owned the adjacent property.

CONCLUSION

CSXT respectfully requests that the Board deny the Foxes Motion to Strike.

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Respectfully Submitted,



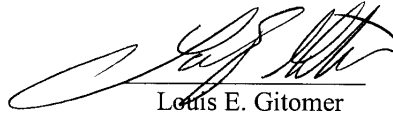
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Attorneys for:
CSX TRANSPORTATION, INC.

Dated: March 18, 2004

CERTIFICATE OF SERVICE

I certify that this day, March 18, 2004, I have served copies of this Reply on all parties of record in this proceeding, by first class mail, postage pre-paid.

A handwritten signature in black ink, appearing to read 'Louis E. Gitomer', is written over a horizontal line.

Louis E. Gitomer
March 18, 2004